Special Circular No. 103, 1969-1970

BOARD OF EDUCATION OF THE CITY OF NEW YORK
OFFICE OF THE SUPERINTENDENT OF SCHOOLS

June 24, 1970

TO ALL SUPERINTENDENTS, PRINCIPALS, DIRECTORS, HEADS OF BUREAUS AND CHAIRMEN OF LOCAL SCHOOL BOARDS

Ladies and Gentlemen:

PUPIL SUSPENSION

I. Introduction

This circular supersedes Special Circular No. 36, dated November 12, 1969, and all previous circulars and references on the subject of pupil suspension, such as Chapter 8 of the Manual of Attendance Procedures for Principals and Chapter 4 of the Manual of Procedures of the Bureau of Child Guidance. The suspension of a pupil required to attend school is a serious step. The parent has the responsibility for the pupil's regular attendance and orderly behavior while attending school. It is also the responsibility of the parent to maintain the pupil in proper mental and physical condition. The school has the responsibility to accept and instruct all educable pupils, and as such, must take all possible steps in the educative process to prevent the suspension of children. However, it must be recognized that for a variety of reasons some pupils cannot maintain themselves or be maintained in a classroom setting.

II. Prevention Procedures

A. General Considerations

All possible alternatives should be explored to help children resolve their adjustment problems before suspension is considered. In pursuit of this objective the school will assume the responsibility to refer pupils and their parents for specialized help.

If after all available remedial procedures have been applied, a pupils remains disruptive or maladjusted to the extent that he does not profit from instruction or that he prevents other pupils from learning, his educational placement must be re-evaluated. It is recognized that authoritative steps may be necessary, but the approach should be supportive. Each principal and teacher has a responsibility to identify pupils in need of help and to enlist the aid of the Board of Education's pupil personnel services as well as the resources available in the community. In addition, the principal should have available a sufficient record indicating that the pupil was recognized to be in need of extra support and the specific steps taken with parents and staff to help the child. The success or failure of these steps and other pertinent data should be an essential part of the record. However, there may be instances when the severity of a pupil's action will necessitate his suspension even though there be no previous history of disruptive behavior. The suspension procedure must be considered a part of the continuous educational guidance program for the child. Principals', community superintendents' and supervising assistant superintendents' conferences, in relation to suspension, provide an opportunity for parents, teachers, counselors, supervisors, et al., to plan educationally for the benefit of the child.

B. Principal's Conference to Prevent Suspension

1. When a serious problem arises regarding a pupil's behavior, a presuspension conference attended by the appropriate personnel should be called at an early stage in an effort to resolve the problem. It is expected that the parent will be included in efforts to help the pupil in school adjustment.

2. The principal should notify the parent to attend the presuspension conference by a personal letter. (Personal letters are preferable to form letters.) The following letter is suggested, only:

"I am very anxious to meet with you to discuss a serious problem that your child, - (Name) - is having. Would you please come in to see me on - (Date-Time-Place) - so that we can plan ways to solve the problem.

I must stress the urgency of our arriving at a joint solution so that we may avoid suspension or other alternatives."

Yours very truly,

3. Inasmuch as this is a guidance conference held for the purpose of providing an opportunity for parents, teachers, counselors, supervisors, et al., to plan educationally for the benefit of the child, attorneys seeking to represent the parent or child may not participate.

III. Suspension Procedures

A. Principal's Suspension

POOR COPY

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III. Suspension Procedures

A. Principal's Suspension

1. The school principal shall have emergency power to suspend a student from participation in regular school activity when he determines that the overt behavior of that student prevents the orderly operation of the class or other activities or presents a clear and present danger of physical injury to school personnel or students. Such suspension shall be reviewed daily by the principal and shall last only so long as such conditions continue to prevail, but in no case shall exceed five days. No student shall be placed under emergency suspension pursuant to this section twice consecutively or more than twice in one school year. (Note: the above is an excerpt from the Board of Education resolution adopted October 22, 1969.) The clear intention of the suspense procedure is that suspension for a period beyond five days shall have been preceded by a hearing, consequently a principal's suspension may not be followed consecutively by a [illegible] intendent's suspension.

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III. Suspension Procedures - Continued

2. Whenever a pupil under the care of the Bureau of Child Guidance, or another agency or therapist is to be suspended, the principal shall consult with the Bureau of Child Guidance, or agency or therapist prior to the suspension. The final decision remains with the principal.

3. The principal will remove the pupil from his class and must keep him in school under supervision until the close of the school day or the arrival of the person in parental relation to the pupil.

4. The student's parents and community superintendent or the supervising assistant superintendent shall be immediately advised of any emergency suspension by telephone or telegram and the reasons therefor. The parents shall also be informed by certified mail, posted on the day of suspension, that their child has been suspended, the specific reasons for the suspension and that their presence is requested at school for a conference at which time the parent will be permitted the opportunity to discuss the findings leading to the student's removal from class, to question the complainants and to present additional information. The following format should be used: (N.B. A personal letter is suggested rather than a duplicated form.)

"I regret that it has become necessary to suspend your child from school until _____ (Set date not to exceed 5 days), because

(State specific reason with clarity and definiteness)

It is important that you call or write to my office immediately to make an appointment for a mutually convenient time. At that time, you will have the opportunity to examine and discuss the relevant facts with all the parties concerned, so that we may plan together for your child's return to school. If you wish, you may bring two persons. They may be attorneys but may act in the capacity of advisors only. During the period of suspension, your child should be kept at home during school hours."

A copy of the Appeals Procedures must be enclosed with suspension letter to the parents.

5. The conference will be conducted by the principal who will explain the basis of his decision to suspend and allow the parent and student to present their side of the story. According to state law, the person in parental relation may ask questions of complaining witnesses. Parental responsibility should be emphasized. According to the By-laws of the Board of Education, at the conference the parent and the principal may each have the assistance of up to two additional persons unless both parties agree to the presence of more persons.

6. Every effort should be made to secure the parent's attendance at the conference. If the person in parental relation to the child fails to respond or appear, the principal may refer the case to the community superintendent or supervising assistant superintendent who shall take such action as he may determine. A conference cannot take place unless the parent or person in parental relation is present. A guidance approach should be emphasized and maintained throughout the conference which should not be allowed to become an adversary proceeding.

7. A pupil suspended by the principal must be returned to the school by the principal no later than 5 school days after the day of the principal's suspension. A permanent record of the guidance conference held in connection with the suspension will be maintained by the principal.

8. A pupil suspended by the principal under this section may not be suspended more than twice during the school year. These may not be consecutive periods of suspension.

9. At the end of every attendance reporting period of the school year, each principal will send to the Community Superintendent or Supervising Assistant Superintendents:

The name of each pupil suspended
The reason for suspension
Date suspended
Date of principal's hearing
Date of pupil's return to class
Number of school days suspended

10. The suspended pupil will remain on the register of his school and will be marked absent in the roll book during the period of suspension.

B. Community Superintendent's or Supervising Assistant Superintendent's Suspension

1. When a principal believes that a student is so disruptive as to prevent the orderly operation of classes or other school activities, presents a clear and present danger of physical injury to other students or school personnel, or that he will benefit from an alternative educational experience, he shall refer such cases to the community superintendent or supervising assistant superintendent, giving him a brief summary of the student's behavior.

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6. Every effort should be made to secure the parent's attendance at the conference. If the person in parental relation to the child fails to respond or appear, the principal may refer the case to the community superintendent or supervising assistant superintendent who shall take such action as he may determine. A conference cannot take place unless the parent or person in parental relation is present. A guidance approach should be emphasized and maintained throughout the conference which should not be allowed to become an adversary proceeding.

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2. If the Community Superintendent/Supervising Assistant Superintendent decides on the basis of the information provided by the principal that suspension procedures are warranted, he shall schedule a hearing on notice of not more than five school days by certified letter to the parents of the student and should hold such hearing on or before the fifth school day of suspension. The notice shall designate the date, time and place of the hearing and shall contain a statement setting forth the parent's right to be represented by counsel and a statement of the specific behavior of the student. Since the decision to suspend is the responsibility of the community superintendent/supervising assistant superintendent, he is required to send the letter of suspension. (The following format is suggested only)

Suggested Format :

Dear

At the request of , Principal of and in view of charged serious misbehavior, your (daughter/son) has been suspended from school. The allegations of misbehavior include the following:

(State specific reasons with clarity and definiteness)

A guidance conference and suspense hearing has been scheduled for:

DATE:
TIME:
PLACE:
PHONE:

It is most important that you attend this conference and that you bring your (daughter/son) with you. In accordance with State Education Law, you may if you wish, have counsel accompany you to this conference. You or counsel have the right to question witnesses.

During this period of suspension, is not to come to school and should be kept home during school hours.

Yours very truly,

John Doe
Community Superintendent or
Supervising Assistant Superintendent

A copy of the Appeals Procedure must be enclosed with suspension letter to the parents.

3. On the day that the principal telephones the district office and the community superintendent/supervising assistant superintendent agrees to schedule a suspense hearing for the pupil, the pupil is to remain in school until the close of the day.

It is the responsibility of the principal to utilize every available means to notify the parent or person in parental relationship on that day that the community superintendent/supervising assistant superintendent is suspending the pupil on the basis of information supplied by the school.

The parent or person in parental relationship may request an extension of time for the date of the hearing. The time extension may be granted by the community superintendent/supervising assistant superintendent. If the time extension is granted, the community superintendent/supervising assistant superintendent should notify the parent by telegram and/or certified mail of the new date, time and place of the hearing and that the child is to be kept out of school during the suspension.

4. The hearing shall be conducted in full accordance with the statutory requirements which provide that no pupil may be suspended for a period in excess of five school days unless such pupil and the person in parental relation to such pupil shall have had an opportunity for a fair hearing, upon reasonable notice, at which such pupil shall have the right of representation by counsel, with the right to question witnesses against such pupil.

The important purpose above and beyond meeting the statutory requirements is to provide an opportunity for parents, teachers, supervisors, et al., to plan educationally for the benefit of the child. The community superintendent or supervising assistant superintendent shall make a written statement of his findings, together with the determination thereof. Such determination may include among other appropriate measures the pupil's reinstatement, transfer to another school, referral for placement in a School for Socially Maladjusted Children, referral to the Bureau of Child Guidance or other suitable professional agency for study and recommendation.

In certain suspension cases where the recommendation is that the pupil be placed in an alternative educational institution, pending such placement, it shall be the responsibility of the Community Superintendent or supervising assistant superintendent to provide for some other means of instruction, such as home instruction.

Suspension should take place only after a finding that the continued attendance of the pupil at his former situation prevents the orderly operation of the classroom or other school activity or presents a clear and present danger of physical injury to students or other school personnel. Every effort should be made to secure the parent's attendance. If the parent fails to appear the community superintendent

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It is most important that you attend this conference and that you bring your (daughter/son) with you. In accordance with State Education Law, you may if you wish, have counsel accompany you to this conference. You or counsel have the right to question witnesses.

During this period of suspension, _____ is not to come to school and should be kept home during school hours.

Yours very truly,

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Suspension should take place only after a finding that the continued attendance of the pupil at his former situation prevents the orderly operation of the classroom or other school activity or presents a clear and present danger of physical injury to students or other school personnel. Every effort should be made to secure the parent's attendance. If the parent fails to appear the community superintendent or the supervising assistant superintendent shall reschedule the hearing, but may suspend a pupil pending the rescheduled hearing where he finds that the continued attendance of the pupil at his former educational situation prevents the orderly operation of the classroom or other school activity or presents a clear and present danger of physical injury to students or to other school personnel.

5. The suspended pupil will remain on the register of his school and will be marked absent in the roll book during the period of suspension. Appropriate notation of the suspension should also be recorded on the cumulative record.

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6. A suspended pupil who moves to another school district within the City shall be placed immediately upon the register of the school serving the new residence and suspension shall be continued. All pertinent information will be forwarded to the community superintendent or supervising assistant superintendent of the new district, who will make final disposition of the case.

7. At the end of each attendance reporting period, the community superintendent or supervising assistant superintendent will forward to the Superintendent of Schools a report on pupil suspensions, including the following:

a) A summary of the community superintendent's or supervising assistant superintendent's suspensions and descriptive data regarding disposition and status as well as time elapsed since the date of suspension.

b) The number of principal suspensions and the duration of each suspension.

IV. Regulations Governing Appeals

If, after meeting with the school principal, the parent believes that the suspension was not justified, he may, for the elementary and junior high schools, appeal in the first instance to the community superintendent and in the second instance from the community superintendent to the community school board and then to the Central Board of Education to review the suspension decision.

Appeals affecting high school and special school students should be appealed in the first instance to the supervising assistant suaperintendent and in the second instance to the Central Board of Education.

After a decision on an appeal is reached, the parent shall be informed of the decision in writing and the reasons therefor. In any case, where the supervising assistant superintendent, the community superintendent, the community school board or the Central Board of Education find that the action of the student did not justify his suspension from classes, the student shall be exonerated and any record of disciplinary proceedings against him shall be expunged from his record.

Very truly yours,

IRVING ANKER
Superintendent of Schools (Acting)

BY-LAWS OF THE BOARD OF EDUCATION OF THE CITY OF NEW YORK, SECTION 90, SUBDIVISION 42—SUSPENSIONS

42. The following procedures shall exclusively set forth the emergency suspension powers of a school principal pursuant to paragraphs (b) and (d) of subdivision 6 of section 3214 of the Education Law.

1. The school principal shall have emergency power to suspend a student from participation in regular school activity when he determines that the overt behavior of that student prevents the orderly operation of the class or other school activities or presents a clear and present danger of physical injury to school personnel or students. Such suspension shall be reviewed daily by the principal and shall last only so long as the conditions continue to prevail, but in no case shall exceed five days. No student shall be placed under emergency suspension pursuant to this section twice consecutively or more than twice in one school year.

2. The student's parents and the supervising assistant superintendent shall be immediately advised of any emergency suspensions by telephone or telegram and the reasons therefor. The parents shall also be informed by certified mail, posted on the day of suspension, that their child has been suspended, the reasons for the suspension and that their presence is requested at school for a conference, at which time the parent will be permitted the opportunity to discuss the findings leading to the student's removal from class, questioning the complaints and presenting additional information. At the conference the parent and the principal may each have the assistance of up to two other people unless both parties agree to additional persons.

Plans shall be made to provide the maximum educational experience for the student. A copy of the certified letter to the parent shall be forwarded also to the supervising assistant superintendent. When suspended from the classroom, the student shall remain under the supervision of the principal until the end of the school day or until such time as the parent comes to claim his child.

3. If, after meeting with the school principal, the parent believes that the suspension was not justified, he may first appeal to the supervisiing assistant superintendent and then to the community school board or to the Central Board of Education to review the suspension decision. The parent shall have the right to present evidence through either oral or written procedures.

4. After a decision on an appeal is reached, the parent shall be informed of the decision in writing and the reasons therefor. In any case where the supervising assistant superintendent, a community school board or the Central Board of Education finds that the action of the student did not justify his suspension from classes, the student shall be exonerated and any record of disciplinary proceedings against him shall be expunged from his record.